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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/866,461	05/24/2001	Edward Almond	UDL1P063	4124
22434	7590	11/21/2003	EXAMINER	
BEYER WEAVER & THOMAS LLP P.O. BOX 778 BERKELEY, CA 94704-0778			SIRMONS, KEVIN C	
			ART UNIT	PAPER NUMBER
			3763	
			DATE MAILED: 11/21/2003	

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/866,461

Applicant(s)

ALMOND ET AL.

Examiner

Kevin C. Sirmons

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 January 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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DETAILED ACTION

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: (10). A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-8 and 10-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Carlson et al U.S. Pat. No. 5,820,600.

Carlson discloses a seal for laparoscopic port comprising: a base (8), the base including an axial aperture (62, 116); a multiplicity of jaws (110) mounted on the base (figs. 5A, 5B), the jaws being moveable radially with respect to the aperture between an open position wherein the shaft of the surgical instrument may pass freely and the closed position wherein the jaws engage said shaft and provide a restraining force radial movement of the shaft (col. 9, lines 53-67; col. 10, lines 1-19);

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an actuator rotatable (figs. 4-5B and col. 6, lines 1-8) to urge the jaws to move between said open position and said closed position; as to claims 2-8 and 10-16, (figs. 4, 5A and 5B).

Claims 1, 2 and 8-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Smith et al E.P. Pat. No. 0 630,660.

Smith discloses a seal for laparoscopic port comprising: a base, the base including an axial aperture; a multiplicity of jaws mounted on the base, the jaws being moveable radially with respect to the aperture between an open position wherein the shaft of the surgical instrument may pass freely and the closed position wherein the jaws engage said shaft and provide a restraining force radial movement of the shaft (col. 12, lines 14-55 and figs.8-10)

Conclusion

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Kevin C. Sirmons whose telephone number is (703) 306-5410. The examiner can normally be reached on Monday - Thursday from 6:30 am to 4:00 pm. The examiner can also be reached on alternate Fridays.



Kevin C. Sirmons
Patent Examiner
11/19/03